

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

BUREAU OF ACCOUNTS
INFORMATIONAL GUIDELINE RELEASE No. 81-04 - "Offset Receipts"

Chapter 339 of the Acts of 1981

Background

This year, as a direct result of Proposition 2½, many municipalities have scrutinized their policies regarding so called user fees and charges for services. A number of individual community bills were filed requesting permission to create a "revolving fund" which would permit the use of such fees received by the department without further appropriation.

Historically, the General Court, and more specifically its Committee on Local Affairs, has taken a dim view in creating such "revolving funds. Their primary concern was the lack of local control over the municipal operations that are financed through this procedure.

The Legislature, in recognition of the need to assist cities and towns at this time, decided to review their position. The Approach that they created, in consort with the Department of Revenue, is contained in the recently enacted Chapter 339 of the Acts of 1981. In essence, the resultant approach is to allow the use of receipts from user fees as an offset against the costs of the specific department or agency that is rendering the service.

It is important to note that this legislation does require an appropriation for the total costs and does allow an allocation of the estimated receipts, of the same year, as an "offset" or a source of financing. Furthermore, it should be noted that this does not follow the principles of "revolving funds".

Provisions of Chapter 339 -- Acts of 1981

Section 1. This section permits any city or town that accepts the provision of a newly created section in the general laws (C. 44 S. 59E) to use the estimated receipts from user fees to offset the related department's current year appropriations.

The use of such fees are limited to the actual amounts received or expected to be received during the previous fiscal year or such other estimates as approved, in advance of appropriation, by the Commissioner of Revenue.

Receipt of fees so allocated are to be deposited in a special account or otherwise specifically identified. They may be expended without further appropriation.

Any unexpended balances at the end of the fiscal year revert to the general treasury.
Any deficit that results must be raised in the next possible tax levy if not otherwise funded.

The board, commission or other responsible entity must file a report of the fund's cash receipts and disbursements within 45 days after the close of the fiscal year. This report must go to the mayor, city council, city manager, board of selectmen or town manager as well as the Director of Bureau of Accounts.

Finally, this section prescribes the mechanism for inclusion of the forementioned in the tax rate setting process. Basically, the allocated funds are treated as if they were "other available funds" on the tax recapitulation forms submitted to the Department of Revenue for approval.

Section 2. This section merely adds appropriate language to Chapter 59 Section 23 to provide for the requirement to automatically raise any deficit resulting from the use of the provisions discussed in Section 1 above.

Section 3. This section was added so as to enable a town to utilize the features of this enactment in fiscal 1982 without going to the expense of calling a town meeting. For fiscal 1982 only, a majority of the selectmen may authorize the use of estimated user fees as offsets against the related operating costs of appropriations. All of the other portions of this section are the same as those contained in Section 1 which will apply, for towns, in every year thereafter.

The Department of Revenue will require those communities that adopt this approach for fiscal 1982 to still obtain the Commissioner's approval if the estimated receipts used as an offset exceeds or is expected to exceed the previous year's actual.

Analysis

This legislation formally established a procedure that permits, upon local acceptance, the use of estimated receipts to defray (or "offset") the costs of operations of the related department on a timely basis. In other words, the receipts of fiscal 1982 are used as a source of financing the costs to be expended during the same fiscal year.

Local Control is provided by virtue of either town meeting or city council approval of the use of such receipts, the amounts to be used and the amounts to be appropriated. Further-more, a city or town has the discretion of either accepting or not accepting the provisions in the first place.

In addition, there is control over the amounts to be used if they are to include estimates that exceed previous year's actuals. This control, in fact, is one that requires permission from a State authority even prior to its local acceptance.

Implementation

There are several items that need to be developed before this enactment will be functional. The Department of Revenue will issue the prescribed forms, guidelines and instructions relative to:

1. Procedures for requesting permission to use receipts in excess of previous year;
2. Forms for submission of schedule of votes;
3. Format for annual report with instructions.

These will be issued in the very near future.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

P.O. Box 9655, Boston, MA 02114-9655 (617) 626-2300
